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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,348	05/09/2001	Lutz Richter	A-2829	4692
24131	7590	08/19/2004	EXAMINER	
LERNER AND GREENBERG, PA			WEEKS, GLORIA R	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			3721	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/852,348	RICHTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gloria R Weeks	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6,8,10-12,14 and 20-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6,8,10-12,14 and 20-23 is/are rejected.
- 7) Claim(s) 24-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This action is in response to Applicants' Appeal Brief received on May 21, 2004.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 8, 10-12, 14 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (USPN 6,142,353) in view of Raffoni (USPN 6,164,512).

In reference to claims 6, 8, 10-12, 20-23, Boss et al. discloses a gathering stapler comprising: a plurality of cooperating subassemblies including an operatively revolving endless chain (6) having a conveying strand running in a conveying direction (63) at a certain speed and conveying gathered folded sheets (11); a stapling carriage (15) attached to the conveying strand (via 29) and operatively oscillating in parallel with the conveying strand for running in synchronicity with the conveying strand in the conveying direction with certain time segments (column 3, lines 15-21); stapling heads (16) mounted to the stapling carriage (15) and adapted for ejecting staples; a stapling displacement (column 4, lines 31-37) configuration adapted for activating the stapling heads for ejecting staples; a delivery (10); an ejector (column 3, lines 9-14); and a plurality of subassembly drives (12, 14, 39). Boss et al. does not disclose a motor for separately controlling at least some of the subassemblies.

Raffoni teaches a fastening device comprising a plurality of subassemblies including: a delivery conveyor (128); a stapling carriage (81, 83, 84); stapling head (77, 78, 79) mounted to the stapling carriage (81, 83, 84); an ejector (132); and a plurality of subassembly drives (10, 22, 76, 118, 124, 141) managed by a programmable central control device (column 7, lines 60-67); the delivery conveyor (128) controlled by a motor (141); the ejector (132) controlled by a motor (141); and the stapling carriage (81, 83, 84) controlled by motors (118, 124). It would have been obvious to one having ordinary skill in the art to modify the single drive system of Boss et al. to include the multiple drive system of Raffoni for the purpose of optimizing performance of each subassembly, while maintaining synchronization (Raffoni-column 7, lines 60-64).

Regarding claim 14 and its limitations as stated above, Boss et al. in view of Raffoni discloses a gathering stapler controlled by a computer, but does not disclose the external composition of the computer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a computer having a display device since Examiner takes Official Notice that programmable computers are known to include a display device and a operating panel.

*Allowable Subject Matter*

4. Claims 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:  
The art of record considered as a whole, alone or in combination, neither anticipates nor renders obvious a gathering stapler having subassemblies, wherein each subassembly has a separate

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motor, and a motor control unit controlling each motor, including a device for detecting the revolution speed and phase of each motor.

***Conclusion***

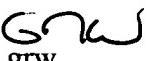
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks  
Examiner  
Art Unit 3721

  
grw  
August 17, 2004

  
SCOTT A. SMITH  
PRIMARY EXAMINER